IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SEVENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and
THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 18074 of 2004

Between:

M/s Surya Enterprises, Srikakulam Town & District
rep. by its Managing Partner, Mr.Baratam Gopinath

..... PETITIONER

AND

The Assistant Commissioner of Commercial Taxes, Intelligence, Vizianagaram

....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an order or direction more particularly one in the nature of Writ of Mandamus or any other appropriate Writ or direction declaring the action of the respondent in collecting the Compounding fee of Rs.1,53,080/- on 31-01-2002 as arbitrary, contrary to law and without jurisdiction as contemplated under Section 32 of the Andhra Pradesh General Sales Tax Act and as per G.O.Ms.No.625, dated
31-07-1996 and also in violation of principles of natural justice, and consequently direct the respondent to refund the compounding fee of Rs.1,50,080/- collected illegally by force more than Rs.3,000/-.

Counsel for the Petitioner: MR.M.V.PAVAN KUMAR

Counsel for the Respondent: SRI A.V. KRISHNA KAUNDINYA, SPECIAL STANDING COUNSEL FOR COMMERCIAL TAXES

The Court made the following:

THE HONOURABLE SRI JUSTICE B. SUDERSHAN REDDY

AND

THE HONOURABLE SRIJUSTICE C.V. RAMULU

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WRIT PETITION No.18074 of 2004

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ORDER: (Per BRSR,J)

Concededly, the subject matter that arises for consideration in this writ petition is squarely covered by the judgment rendered by this Court in ***AMBICA LAMP HOUSE, RAJAHMUNDRY*** v . ***COMMERCIAL TAX OFFICER (INT)-I ENFORCEMENT, HYDERABAD***.

Following the said decision, this writ petition is also disposed of in terms of the said judgment.

However, it is made clear that the evidence or material, if any, gathered by the Commercial Tax Department during the course of investigation, can always be utilized for proceeding further in the matter in accordance with the provisions of the A.P. General Sales Tax Act and the Rules framed thereunder.

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B. SUDERSHAN REDDY, J.

Date: 27/04/2005

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C.V. RAMULU, J.

GS/GRR

To

1. The Assistant Commissioner of Commercial Taxes,
Intelligence, Vizianagaram

2. Two CD copies

3. 1 CC to MR.SHAIK JEELANI BASHA